IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS TYLER DIVISION

LAWRENCE ANDERSON §
v. \$ CIVIL ACTION NO. 6:16cv184

TEXAS DEPARTMENT OF CRIMINAL §
JUSTICE, ET AL.

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE AND ENTERING FINAL JUDGMENT

This lawsuit was severed out of a larger civil action and the Court referred the case to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Plaintiff Lawrence Anderson was directed to file an amended complaint and to pay the statutory filing fee or file an application for leave to proceed *in forma pauperis* which was accompanied by a certified inmate trust account data sheet, as required by 28 U.S.C. §1915(a)(2). When Anderson did not comply, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. After receiving the Report, Anderson did not file objections, but instead filed a request that his lawsuit be dismissed.

The Court has reviewed the record and the Report of the Magistrate Judge and has determined that this Report is correct. Nonetheless, Anderson's request for voluntary dismissal should be granted. *See Carter v. United States*, 547 F.2d 258, 259 (5th Cir. 1977) (plaintiff has absolute right to dismiss his complaint under Rule 41(a), Fed. R. Civ. P., prior to the filing of an answer or motion for summary judgment); *Thomas v. Phillips*, 83 F.App'x 661, 2003 U.S. App. LEXIS 25517, 2003 WL 22965565 (5th Cir., December 17, 2003) (citing *Carter*). It is accordingly

ORDERED that the Plaintiff's request for voluntary dismissal of his civil action (docket no.5) is GRANTED. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** on the motion of the Plaintiff. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby **DENIED**.

So ORDERED and SIGNED this 9 day of February, 2017.

Ron Clark, United States District Judge

Rom Clark